



2024/1102

12.4.2024

COUNCIL DECISION (EU) 2024/1102

of 25 March 2024

on the position to be taken on behalf of the European Union within the EU-UK Specialised Committee on Energy established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, regarding the adoption of the guidance on working arrangements and on administrative arrangements

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 29 April 2021, the Council adopted Decision (EU) 2021/689 ⁽¹⁾ on the conclusion of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ⁽²⁾ (the 'Agreement'). It has applied since 1 January 2021.
- (2) Pursuant to Article 8(4), point (c), of the Agreement, the Specialised Committee on Energy (the 'Specialised Committee'), with respect to issues related to its area of competence, has the power to adopt decisions and recommendations in respect of all matters where the Agreement or any supplementing agreement so provides or for which the Partnership Council has delegated powers to it. Pursuant to Article 10(2) of the Agreement, the Specialised Committee is to adopt decisions and make recommendations by mutual consent. Moreover, pursuant to Article 8(4), point (a), of the Agreement, the Specialised Committee has the power to monitor and review the implementation and ensure the proper functioning of the Agreement.
- (3) Article 317(1) of the Agreement provides that each Party is to ensure that transmission system operators develop working arrangements that are efficient and inclusive in order to support the planning and operational tasks associated with meeting the objectives of Title VIII (Energy) of the Agreement, including frameworks for cooperation between the European Network of Transmission System Operators for Electricity (ENTSO-E) and the European Network of Transmission System Operators for Gas (ENTSO-G), on the one side, and the transmission system operators for electricity and gas in the United Kingdom, on the other.
- (4) Article 318(1) of the Agreement provides that each Party is to ensure that the Agency for the Cooperation of Energy Regulators (ACER) and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Agreement develop contacts and enter into administrative arrangements as soon as possible in order to facilitate meeting the objectives of the Agreement.
- (5) Pursuant to Article 317(1) of the Agreement, the frameworks for cooperation are not to involve, or confer a status comparable to, membership in ENTSO-E or ENTSOG by United Kingdom transmission system operators. Similarly, pursuant to Article 318(2) of the Agreement, the administrative arrangements are not to involve, or confer a status comparable to, participation in ACER by the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Agreement.
- (6) The Specialised Committee is to agree on guidance on the working arrangements referred to in Article 317(1) of the Agreement and on guidance on the administrative arrangements referred to in Article 318(1) of the Agreement as soon as practicable. The Specialised Committee is to adopt a decision on that guidance either during its next meeting or by written procedure, whichever is earlier, following the completion of domestic procedures for that purpose by each Party.
- (7) It is appropriate to establish the position to be taken on the Union's behalf within the Specialised Committee, as the decision of the Specialised Committee will be binding on the Union.

⁽¹⁾ Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information (OJ L 149, 30.4.2021, p. 2).

⁽²⁾ OJ L 149, 30.4.2021, p. 10.

- (8) In order to monitor the implementation of the Agreement, including the guidance of the Specialised Committee, the Union position should be further specified when, prior to their conclusion, the working arrangements and the administrative arrangements are submitted to the Specialised Committee for its consideration. Provided that the working arrangements and the administrative arrangements comply with the Agreement and with the Union position as set out in the draft decision of the Specialised Committee attached to this Decision, it should be possible to express a positive consideration on the Union's behalf within the Specialised Committee. To ensure the regular and full involvement of the Council and its preparatory bodies, the procedures set out in Decision (EU) 2021/689 should apply,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the European Union within the Specialised Committee on Energy is set out in the draft decision of the Specialised Committee attached to this Decision.

Article 2

1. The Union position referred to in Article 1 shall be further specified when, prior to their conclusion, the working arrangements and the administrative arrangements referred to in the Annexes to the draft decision of the Specialised Committee are submitted to the Specialised Committee for its consideration.
2. For the purposes of paragraph 1 of this Article, the Commission shall transmit the working arrangements and the administrative arrangements referred to therein to the Council in accordance with Article 2(2) of Decision (EU) 2021/689.
3. Provided that the working arrangements and the administrative arrangements referred to in paragraph 1 of this Article comply with the Agreement and with the Union position set out in Article 1, the Council may approve a positive consideration to be expressed by the Commission on the Union's behalf.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 25 March 2024.

For the Council
The President
M. MARON

DRAFT

DECISION No .../... OF THE SPECIALISED COMMITTEE ON ENERGY ESTABLISHED BY ARTICLE 8(1)(I) OF THE TRADE AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

of ...

on the guidance on frameworks for cooperation between, respectively, ENTSO-E and the United Kingdom transmission system operators for electricity, ENTSOG and the United Kingdom transmission system operators for gas, and ACER and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement (GEMA and Utility Regulator)

THE SPECIALISED COMMITTEE ON ENERGY,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (the 'Trade and Cooperation Agreement'), and in particular Article 317(1) and Article 318(1) thereof,

Whereas:

- (1) Pursuant to Article 8(4), point (a), of the Trade and Cooperation Agreement, the Specialised Committee on Energy (the 'Specialised Committee') has the power to monitor and review the implementation and ensure the proper functioning of the Agreement in its area of competence. Pursuant to Article 8(4), point (c), of the Trade and Cooperation Agreement, it has the power to adopt decisions and recommendations in respect of all matters where the Trade and Cooperation Agreement so provides or for which the Partnership Council has delegated its powers to that Specialised Committee pursuant to Article 7(4), point (f), of the Trade and Cooperation Agreement.
- (2) Article 317(1) of the Trade and Cooperation Agreement provides that each Party is to ensure that transmission system operators for gas and electricity of the Union and of the United Kingdom develop working arrangements, including frameworks for cooperation, that are efficient and inclusive in order to support the planning and operational tasks associated with meeting the objectives of Title VIII (Energy) of the Trade and Cooperation Agreement. It lays down the scope and conditions of the working arrangements, in particular that they are not to involve, or confer a status comparable to, membership in ENTSO-E or ENTSOG for United Kingdom transmission system operators.
- (3) Pursuant to Article 317(1), third subparagraph, of the Trade and Cooperation Agreement, the Specialised Committee is to agree on guidance on the working arrangements and frameworks for cooperation for dissemination to transmission system operators as soon as practicable.
- (4) Article 318(1) of the Trade and Cooperation Agreement provides that each Party is to ensure that the Agency for the Cooperation of Energy Regulators (ACER) and the regulatory authority in the United Kingdom designated in accordance with Article 310 develop contacts and enter into administrative arrangements as soon as possible in order to facilitate meeting the objectives of the Trade and Cooperation Agreement and it lays down the scope and conditions of the administrative arrangements. Article 318(2) of the Trade and Cooperation Agreement provides in particular that such administrative arrangements are not to involve, or confer a status comparable to, participation in ACER by the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement.
- (5) Pursuant to Article 318(1), second subparagraph, of the Trade and Cooperation Agreement, the Specialised Committee is to agree on guidance on the administrative arrangements for such cooperation for dissemination to regulatory authorities as soon as practicable.
- (6) The Specialised Committee should agree on guidance on the working arrangements referred in Article 317(1) of the Trade and Cooperation Agreement and on the administrative arrangements referred to in Article 318(1) of the Trade and Cooperation Agreement as soon as practicable, building as much as possible on the work already accomplished by the TSOs, regulatory authorities, ENTSO-E, ENTSOG and ACER since 2021,

HAS ADOPTED THIS DECISION,

Article 1

The guidance of the Specialised Committee as set out in Annex I is hereby adopted as the guidance on working arrangements between ENTSO-E and the United Kingdom transmission system operators for electricity. The Specialised Committee requests the Parties to disseminate it to them without delay.

Article 2

The guidance of the Specialised Committee as set out in Annex II is hereby adopted as the guidance on working arrangements between ENTSG and the United Kingdom transmission system operators for gas. The Specialised Committee requests the Parties to disseminate it to them without delay.

Article 3

The guidance of the Specialised Committee as set out in Annex III is hereby adopted as the guidance on administrative arrangements between ACER and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement (GEMA and Utility Regulator). The Specialised Committee requests the Parties to disseminate it to them without delay.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Brussels and London, ...

I. VALERO

P. KOVACS

For the Specialised Committee

The co-Chairs

M. SKRINAR

ANNEX I

Guidance on working arrangements between ENTSO-E and the United Kingdom transmission system operators for electricity

Considering Article 317 of the Trade and Cooperation Agreement which requires the Parties to ensure that transmission system operators develop working arrangements, including a framework for cooperation between ENTSO-E on the one hand and the UK transmission system operators (TSOs) for electricity on the other hand,

1. ENTSO-E and the UK TSOs for electricity are asked to develop and implement, as soon as possible, efficient and inclusive working arrangements to ensure their effective cooperation.
2. The working arrangements should cover the following areas of cooperation and closely related aspects thereof:
 - Electricity markets
 - Access to networks
 - Security of electricity supply
 - Infrastructure planning
 - Offshore energy
 - Efficient use of electricity interconnectors
 - Gas decarbonisation.

The working arrangements should be limited to technical and administrative matters, including exchange of information, while maintaining full decision-making autonomy of each side with respect to their policy-making functions respectively in the Union and in the United Kingdom.

3. UK TSOs for electricity should act jointly and need to establish their own forms of coordination to engage with ENTSO-E having due regard to the relevant competition rules.
4. The working arrangements shall not involve or confer to UK TSOs for electricity a status comparable to membership of ENTSO-E, or provide for the participation of the UK TSOs for electricity in the meetings of ENTSO-E.
5. The working arrangements should be developed as soon as possible and, prior to their conclusion, be submitted to the Specialised Committee for its consideration. Following its conclusion, the working arrangements should be communicated appropriately to the relevant market participants.

ANNEX II

Guidance on working arrangements between ENTSOG and the United Kingdom transmission system operators for gas

Considering Article 317 of the Trade and Cooperation Agreement which requires the Parties to ensure that its transmission system operators develop working arrangements, including a framework for cooperation between ENTSOG on the one hand and the UK transmission system operators (TSOs) for gas on the other hand,

1. ENTSOG and the UK TSOs for gas are asked to develop and implement, as soon as possible, efficient and inclusive working arrangements to ensure their effective cooperation.
2. The working arrangements should cover the following areas of cooperation and closely related aspects thereof:
 - Gas markets
 - Access to networks
 - Security of gas supply
 - Infrastructure planning
 - Offshore energy
 - Efficient use of gas interconnectors
 - Gas decarbonisation and gas quality, including aspects of methane emissions reduction in natural gas.

The working arrangements should be limited to technical and administrative matters, including exchange of information, while maintaining full decision-making autonomy of each side with respect to their policy-making functions respectively in the Union and in the United Kingdom.

3. UK TSOs for gas should act jointly and need to establish their own forms of coordination to engage with ENTSOG, having due regard to the relevant competition rules.
4. The working arrangements shall not involve or confer to UK TSOs for gas a status comparable to membership of ENTSOG, or provide for the participation of the UK TSOs for gas in the meetings of ENTSOG.
5. The working arrangements should be developed as soon as possible and, prior to their conclusion, be submitted to the Specialised Committee for its consideration. Following its conclusion, the working arrangements should be communicated appropriately to the relevant market participants.

ANNEX III

Guidance on administrative arrangements between ACER and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement (GEMA and Utility Regulator)

Considering Article 318 of the Trade and Cooperation Agreement which requires the Parties to ensure that the Agency for the Cooperation of Energy Regulators (ACER) and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement develop contacts and enter into administrative arrangements in order to facilitate meeting the objectives of the Agreement,

1. ACER and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement (GEMA and Utility Regulator) are asked to develop and implement, as soon as possible, administrative arrangements to ensure their effective cooperation.
2. The administrative arrangements should cover the following areas of cooperation and closely related aspects thereof:
 - Electricity and gas markets
 - Access to networks
 - Detection and prevention of market abuse, including appropriate exchange of information
 - Security of electricity and gas supply
 - Infrastructure planning
 - Offshore energy
 - Efficient use of interconnections
 - Cooperation between transmission system operators
 - Gas decarbonisation and gas quality.

The administrative arrangements should be limited to technical and administrative matters, including exchange of information, while maintaining full decision-making autonomy of each side with respect to their policy-making functions respectively in the Union and in the United Kingdom.

3. The UK GEMA and the Utility Regulator should act jointly and will need to establish their own forms of coordination to engage with ACER as part of a unique delegation.
4. The administrative arrangements shall not involve or confer to the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement a status comparable to participation in ACER, or provide for the participation in the meetings of ACER of the regulatory authority in the United Kingdom designated in accordance with Article 310 of the Trade and Cooperation Agreement.
5. The administrative arrangements should be developed as soon as possible and, prior to their conclusion, be submitted to the Specialised Committee for its consideration. Following its conclusion, the administrative arrangements should be communicated appropriately to the relevant market participants.